

EXHIBIT D

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,)
Plaintiff,)
vs.) No. CV 10-03561 WHA
GOOGLE, INC.,)
Defendant.)
_____)

Videotaped deposition of STEVEN M. SHUGAN, PH.D.,
taken at the law offices of Boies, Schiller &
Flexner LLP, 1999 Harrison Street, Suite 900,
Oakland, California, commencing at 9:40 a.m.,
on Monday, September 26, 2011, before
Leslie Rockwood, RPR, CSR No. 3462.

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1 Q. So the feature sets that you tested in the
2 conjoint analysis was to some extent constrained by the
3 subject matter of the case?

4 A. I wouldn't use the word "constrained." I
5 would use the word "focused" on the attributes involved 10:18:26
6 in the case.

7 Q. Do you recall who communicated to you
8 specific features that ought to be included in the
9 conjoint analysis?

10 A. Well, the -- your question is not really 10:18:45
11 clear in the sense that there are different features in
12 the analysis. Now, some of the features were
13 communicated to me through Analysis Group that they were
14 required features and need to be there. Other features I
15 decided should be there, and there were other features 10:19:09
16 that Cockburn decided needed to be there. And then in
17 the end, I put it all together and decided which ones to
18 actually include in the analysis.

19 So the -- there wasn't one source where all
20 of the features came from. 10:19:23

21 Q. Okay. That's helpful. Thank you.

22 So which features did Professor Cockburn
23 instruct you should be included in the conjoint analysis?

24 A. Okay. The features that -- at the time that
25 were communicated included multitasking, the application 10:19:43

1 startup time, and the features related to the operating
2 system that are in the conjoint analysis.

3 And then the brand and price features, I
4 decided those needed to be included. And then the voice
5 command features, that was came up with through a 10:20:04
6 discussion of -- with Analysis Group about what to
7 include in the analysis and what not to include in the
8 analysis.

9 And the final one that also came from
10 Cockburn was the applications, the availability of the 10:20:18
11 applications. And that's outlined in my report.

12 Q. Were there any features that were discussed
13 for inclusion in the conjoint analysis but rejected?

14 MR. NORTON: Objection to form.

15 Can you -- I just -- there are Rule 26 10:20:36
16 problems with some of your questions. And so can you
17 just focus on whether he's having conversations with
18 counsel, having conversations with Analysis Group, or
19 having conversations with Mr. Cockburn? Otherwise, I'll
20 have to give him instructions on all of your questions. 10:20:51

21 MR. PURCELL: Right.

22 Q. So just so you know, I'm referring to your
23 discussions with Dr. Cockburn and Analysis Group, not
24 your instruction -- or your discussions with Oracle's
25 counsel. 10:21:00

1 changes, that holds constant the other features.

2 Q. How does the analysis hold all the other
3 features constant if all the other product features
4 aren't specified?

5 A. The features that are not specified are held 10:32:10
6 constant by requesting that the consumer hold them
7 constant when making the decisions within the
8 questionnaire.

9 So the questionnaire presents the consumer
10 with product profiles and asks them based on the 10:32:27
11 profiles, these other features are held constant, which
12 of the profiles they would prefer.

13 And so the task doesn't involve the --
14 necessarily only the products that are actually
15 physically in the market with all of their feature sets. 10:32:44
16 It includes only the profiles that they're given.

17 And so that allows you to collect data that
18 allows you to make comparisons between the phones if the
19 other features were all held constant, and that allows
20 you to isolate the effect of a particular feature on the 10:33:01
21 choice decision.

22 Because what we're concerned about here in
23 this case is if all other features that are unrelated to
24 the case are held constant and you only changed a
25 feature, what that changes. 10:33:16

1 STATE OF CALIFORNIA) ss:

2 COUNTY OF MARIN)

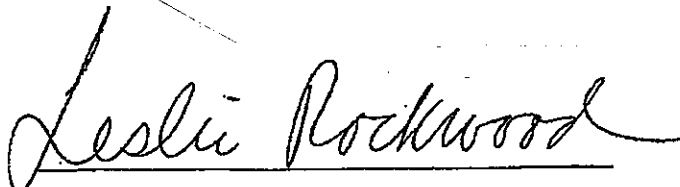
3
4 I, LESLIE ROCKWOOD, CSR No. 3462, do hereby
5 certify:

6 That the foregoing deposition testimony was
7 taken before me at the time and place therein set forth
8 and at which time the witness was administered the oath;

9 That testimony of the witness and all
10 objections made by counsel at the time of the examination
11 were recorded stenographically by me, and were thereafter
12 transcribed under my direction and supervision, and that
13 the foregoing pages contain a full, true and accurate
14 record of all proceedings and testimony to the best of my
15 skill and ability.

16 I further certify that I am neither counsel
17 for any party to said action, nor am I related to any
18 party to said action, nor am I in any way interested in
19 the outcome thereof.

20 IN WITNESS WHEREOF, I have subscribed my name
21 this 27th day of September, 2011.

22
23 
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25 LESLIE ROCKWOOD, CSR. NO. 3462